

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2021-16

AN ORDINANCE AMENDING ARTICLE I: "OUTDOOR BURNING; HAZARDOUS DEBRIS" IN CHAPTER 210: "FIRE PREVENTION" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO ALLOW AND REGULATE CERTAIN OUTDOOR BURNING WITHIN THE BOROUGH.

Mayor Fox offered the following Ordinance and moved its introduction:

WHEREAS, residents and visitors to the Borough of Bradley Beach (the "Borough") have increasingly utilized outdoor fires on properties within the Borough during seasonal months; and

WHEREAS, the Borough Code does not technically permit, nor appropriately regulate the use of such outdoor fires; and

WHEREAS, the Mayor & Council find it to be in the best interests of the Borough to adopt regulations allowing and regulating outdoor fires;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Section 210-1 entitled "Burning of trash, lumber and other materials prohibited" contained in Article I entitled "Outdoor Burning; Hazardous Debris" of Chapter 210 entitled "Fire Prevention" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

ARTICLE I
OUTDOOR BURNING; HAZARDOUS DEBRIS

§ 210-1 Open Burning of trash, lumber and other materials Prohibited; Exceptions.

A. No person shall burn or cause to be burned any trash, lumber, leaves, straw, refuse or any other combustible material, or kindle or maintain any bonfire or authorize any such fire to be kindled or maintained on any street, alley, road, land, vacant lot, or public grounds or upon any private lot or property west of the boardwalk, unless a written permit to do so shall be first obtained from the Construction Official and Fire Official.

B. Fire pits in back yards, properly constructed, maintained, and supervised, are permitted.

C. Exceptions. This section does not apply to:

- (1) Grilling or cooking food using charcoal cookers, propane or natural gas in cooking or filling appliances, braziers, hibachis, grills, outdoor fireplaces or gas-fired stoves and similar semi-enclosed devices in the backyard of a one-family detached dwelling.
- (2) Burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- (3) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- (4) The use of non-ash producing fuels being used not less than 15 feet from combustible materials, when used in metal containers for the heating of building materials or for the warmth of workers.
- (5) Open burning being used by the fire department in connection with training and performance of its duties.

D. Definitions.

- (1) **Clean Wood.** Clean wood means natural wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products.
- (2) **Waste Materials.** Construction and demolition waste means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
- (3) **Open Burning.** Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.
- (4) **Outdoor Burning.** Outdoor burning means open burning or burning in a patio wood-burning unit.

- (5) **Patio Woodburning Unit.** Patio wood-burning unit means a fire pit, chimnea, patio warmer, or wood-burning device used for outdoor recreation and/or heating. The unit must include "spark arrest" safety features such as netting or metal covers to block large embers. The unit must be constructed of steel, concrete, clay or other non-combustible material.
- (6) **Fire Pit.** A fire pit is a pit dug into the ground or encased in a surrounding structure (as of masonry or steel) in which a fire is kept burning for cooking, warmth, etc. A fire pit is not required for electric, natural gas or propane barbeques or heating units.

E. *Open Burning Regulations.*

- (1) *Cooking.* Outdoor fires utilized for cooking are permitted in backyards without a permit either when contained in a manufactured metal grill or other similar device intended for such use.
- (2) *Recreational Purpose.* Outdoor fires utilized for any other recreational purpose are permitted in backyards when either contained in a manufactured device designed for such purpose and utilized strictly in accordance with the manufacturer's requirements or, alternatively, in a proper noncombustible stone, cement, brick, tile or metal assembled fire pit materials and shall not be more than four feet (4') in interior diameter.
- (3) *Safety Determination.* For all existing premade or assembled firepits within the Borough, should the Fire Chief, Fire Marshal, Construction Code Official or his authorized designee determine that a firepit is unsafe, he may order that said firepit not be used until he or his designee deems said firepit safe.
- (4) *Extinguishment.* There shall be a minimum of a garden hose connected to a reliable water supply, one gallon bucket of water, or a 2a10BC rated fire extinguisher within 20 feet of any patio wood-burning unit.
- (5) *Permitted Fuel.* Only firewood and untreated lumber are permitted to be burned. Burning of any and all other materials, including but not limited to garbage, rubber, plastics, and yard waste, at any location within the Borough is prohibited. No green wood, leaves or other materials which cause excessive smoke may be burned indoors or outdoors at any time. Any smoke or odor from any indoor or outdoor fire must be kept to a minimum.

- (6) Flame height. Flames may not exceed three feet (3') in height at any time, and should the prevailing winds cause the sustained smoke from said fire to blow into a neighboring dwelling or property, said fire must be extinguished immediately.
- (7) Supervision. Indoor and outdoor fires must be attended at all times by a competent adult (over the age of 18) owner or legal resident of the property from the time said fire is commenced through the time said fire is completely extinguished.
- (8) Permitted Locations. Open burning shall be permitted only in the backyards of residential properties and/or properties used for agricultural purposes, except in the event that a school, church, or other nonprofit organization conducts a bonfire which has obtained the necessary permit from the Fire Marshal to conduct said activity.
- (9) Setbacks. Permitted open-air burning devices shall be set back not less than 10 feet (measured from the center of the fire pit) from the nearest lot line.
- (10) Distance from Structures. No open-air burn may occur on a residential property within 15 feet (measured from the center of the fire pit) of any main or accessory structure on the property, including, but not limited to, any dwelling, garage or shed.
- (11) Hours of Operation. Operational hours for any patio wood-burning unit shall be limited to the time between 11:00 a.m. and 1:00 a.m.

F. Enforcement and Penalties.

- (1) Enforcement. The Police, The Fire Chief, Fire Marshal, Construction Code Official or his designee are authorized to require that any residential outdoor fire be immediately extinguished if he determines that said fire constitutes a hazardous condition. Failure to comply with Fire or Police Department orders shall constitute a violation of this chapter in addition to any and all criminal and regulatory violations which may be cited against the property owner and those individuals responsible for maintenance of the hazardous or offensive condition.

(2) Penalties. Each and every person failing to comply with any of the provisions in this chapter shall, upon conviction thereof, be punished by a fine of up to \$1,000.00 per offense, a term of imprisonment of up to 90 days and/or be required to perform community service for up to 90 days. Each day a violation exists shall constitute a new and separate offense subject to prosecution. If the device is found to be the fault of a fire that causes property damage, the property owner may be subject to reimbursement for Fire Department suppression costs.

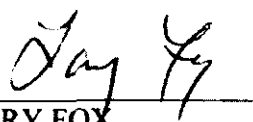
SECTION 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. This Ordinance shall take effect upon adoption and publication in accordance with the laws of the State of New Jersey.

SO ORDAINED as aforesaid.


ERICA KOSTYLE
Municipal Clerk


LARRY FOX
Mayor

Introduced: May 11, 2021

Date of Hearing and Adoption: May 25, 2021

(2) Penalties. Each and every person failing to comply with any of the provisions in this chapter shall, upon conviction thereof, be punished by a fine of up to \$1,000.00 per offense, a term of imprisonment of up to 90 days and/or be required to perform community service for up to 90 days. Each day a violation exists shall constitute a new and separate offense subject to prosecution. If the device is found to be the fault of a fire that causes property damage, the property owner may be subject to reimbursement for Fire Department suppression costs.

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